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SENATE BILL 366

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO CHILD SUPPORT; PERMITTING THE WORKERS' COMPENSATION ADMINISTRATION TO DEDUCT AND WITHHOLD CHILD SUPPORT FROM WORKERS' COMPENSATION PAYMENTS; REQUIRING THE ADMINISTRATION TO NOTIFY CHILD SUPPORT ENFORCEMENT OF PERSONS DETERMINED TO BE ELIGIBLE FOR WORKERS' COMPENSATION; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-1-52 NMSA 1978 (being Laws 1929, Chapter 113, Section 20, as amended) is amended to read:

"52-1-52. EXEMPTION FROM CREDITORS. --

A. Compensation benefits shall be exempt from claims of creditors and from any attachment, garnishment or execution and shall be paid only to ~~[such]~~ the worker or ~~[his]~~ the worker's personal representative or such other persons as

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1 the court may, under the terms [~~hereof~~] of the Workers'  
2 Compensation Act, appoint to receive or collect compensation  
3 benefits.

4 B. Notwithstanding the provisions of Subsection A  
5 of this section, compensation benefits being paid or owing to a  
6 worker shall be considered wages for the purpose of securing  
7 support for a minor dependent. No order may be entered against  
8 such benefits [~~which~~] that results in the worker retaining less  
9 than one hundred dollars (\$100) a week or an amount each week  
10 equal to forty times the federal minimum wage rate if legally  
11 required to support minor dependents other than those for whom  
12 the action is brought.

13 C. The division shall notify the human services  
14 department of the name of a person who files a new claim for  
15 workers' compensation and who is determined to be eligible for  
16 benefits.

17 D. The division shall deduct and withhold from  
18 workers' compensation payments otherwise payable to a person  
19 who owes child support obligations:

20 (1) the amount specified in an agreement  
21 between the person and the child support enforcement division  
22 of the human services department, pursuant to Section  
23 454(20)(B)(i) of the Social Security Act, a copy of which has  
24 been provided to the division by the child support enforcement  
25 bureau; or

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1                   (2) an amount otherwise required to be so  
2 deducted and withheld from such workers' compensation pursuant  
3 to a writ of garnishment or other legal process for enforcement  
4 of judgments issued by any court or administrative agency of  
5 competent jurisdiction in any state, territory or possession of  
6 the United States or any foreign country with which the United  
7 States has an agreement to honor such process directed to the  
8 human services department for the purpose of enforcing a  
9 person's obligation to provide child support.

10                   E. Any amount withheld from the workers'  
11 compensation benefits due a claimant shall be considered as  
12 payment of workers' compensation benefits to the claimant and  
13 paid by the person in satisfaction of child support  
14 obligations.

15                   F. The amount of child support obligations withheld  
16 by the division pursuant to this section shall be paid to the  
17 human services department.

18                   G. As used in this section, "workers' compensation  
19 benefits" means benefits payable pursuant to Chapter 52 NMSA  
20 1978 and amounts payable by or through the division pursuant to  
21 an agreement under any federal law providing for compensation,  
22 assistance or allowance with respect to workers.

23                   H. As used in this section, "child support  
24 obligations" includes only obligations that are being enforced  
25 pursuant to a plan described in Section 454 of the Social

1 Security Act that has been approved by the United States  
2 secretary of health and human services under Part D of Title 4  
3 of the Social Security Act.

4 I. The human services department shall reimburse  
5 the division for the administrative costs incurred by it that  
6 are attributable to the child support obligations being  
7 enforced by the human services department. If the human  
8 services department and the division fail to agree on the  
9 amount of such administrative costs, the state budget division  
10 of the department of finance and administration shall prescribe  
11 the amount of administrative costs to be reimbursed."

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